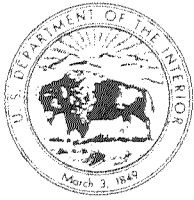


# EXHIBIT 5

Defendants' Motion to Dismiss  
*League of Conservation Voters v. Trump*  
No. 3:17-cv-00101-SLG



THE SECRETARY OF THE INTERIOR  
WASHINGTON

ORDER NO. 3350

Subject: America-First Offshore Energy Strategy

**Sec. 1 Purpose.** This Order further implements the President's Executive Order entitled: "Implementing an America-First Offshore Energy Strategy" (April 28, 2017); enhances opportunities for energy exploration, leasing, and development on the Outer Continental Shelf (OCS); establishes regulatory certainty for OCS activities; and enhances conservation stewardship, thereby providing jobs, energy security, and revenue for the American people.

**Sec. 2 Authorities.** This Order is issued under the authority of Section 2 of Reorganization Plan No. 3 of 1950 (64 Stat. 1262), as amended, and other applicable authorities, including the Outer Continental Shelf Lands Act (OCSLA), 43 U.S.C. 1331 *et seq.*

**Sec. 3 Background.** Safe and responsible development of our offshore natural resources is critical to the Nation's environment and economy. The Bureau of Ocean Energy Management (BOEM) is responsible for administering the leasing program for oil and gas resources on the OCS and developing a five-year schedule of lease sales designed to "best meet national energy needs" for the five-year period following the schedule's approval, as required in Section 18 of the OCSLA, 43 U.S.C. 1334. The BOEM also permits seismic surveys on the OCS and, in conjunction with the Bureau of Safety and Environmental Enforcement (BSEE), regulates leasing, exploration, and development activities on the OCS.

In January 2017 the 2017 - 2022 Outer Continental Shelf Oil and Gas Leasing Program was approved excluding lease sales in the Atlantic Ocean and the Beaufort and Chukchi Seas offshore Alaska. By excluding these areas from the leasing program, the Department has forgone considering areas that potentially contain tens of billions of barrels of oil and over 100 trillion cubic feet of gas by BOEM's own estimates of undiscovered technically recoverable oil and gas resources. In addition, through a series of Presidential Memoranda issued by the previous Administration, huge swaths of the OCS were withdrawn from disposition by leasing along the Alaska and Atlantic coasts.

In addition to existing restrictions on OCS leasing, concerns have been raised by stakeholders that certain final or proposed rules, such as BSEE's final rule on "*Oil and Gas and Sulfur Operations in the Outer Continental Shelf-Blowout Preventer Systems and Well Control*" published at 81 Federal Register 25887 (April 29, 2016), unnecessarily include prescriptive measures that are not needed to ensure safe and responsible development of our OCS resources. Accordingly, a reevaluation of these rules is appropriate and necessary.

On April 28, 2017, the President issued an Executive Order entitled: "Implementing an America-First Offshore Energy Strategy (Executive Order)," which reconfirmed that it is "the policy of the United States to encourage energy exploration and production, including on the

Outer Continental Shelf, in order to maintain the Nation's position as a global energy leader and foster energy security and resilience for the benefit of the American people." The Executive Order eliminated the previous Administration's OCS leasing withdrawals and directed the Department to take a number of actions designed to ensure robust and responsible exploration and development of our OCS resources. These directives include revising the five-year leasing program and reconsidering promulgation of enumerated final or proposed rules and guidance that impact OCS resource development. This Order is designed to implement the President's directives and take other actions to ensure that responsible OCS exploration and development is promoted and not unnecessarily delayed or inhibited.

**Sec. 4 Directive.** In furtherance of the President's Executive Order, and consistent with principles of responsible public stewardship entrusted to the Department, with due consideration of the critical importance of energy security, job creation, and conservation stewardship, I hereby direct the following:

a. The BOEM shall undertake the following actions:

(1) Immediately initiate development of a new "Five-Year Outer Continental Shelf Oil and Gas Leasing Program", with full consideration given to leasing the OCS offshore Alaska, Mid-Atlantic, South Atlantic, and the Gulf of Mexico, in conformity with the provisions of OCSLA as directed by the President's Executive Order.

(2) In cooperation with the National Marine Fisheries Service, undertake the following activities: (i) establish a plan to expedite consideration of Incidental Take Authorization requests, including Incidental Harassment Authorizations and Letters of Authorization, that may be needed for seismic survey permits and other OCS activities; and (ii) develop and implement a streamlined permitting approach for privately-funded seismic data research and collection aimed at expeditiously determining the offshore energy resource potential of the United States.

(3) Expedite consideration of appealed, new, or resubmitted seismic permitting applications for the Atlantic.

(4) Promptly complete BOEM's previously announced review of Notice to Lessees (NTL) No. 2016-N01 "*Notice to Lessees and Operators of Federal Oil and Gas, and Sulfur Leases, and Holders of Pipeline Right-of-Way and Right-of-Use and Easement Grants in the Outer Continental Shelf*" (September 12, 2016), and provide to the Assistant Secretary – Land and Minerals Management (ASLM), the Deputy Secretary, and Counselor to the Secretary for Energy Policy, a report describing the results of the review and options for revising or rescinding NTL No. 2016-N01. The BOEM's previously announced extension of the implementation timelines for NTL No. 2016-N01 shall remain in effect pending completion of the review by the ASLM, Deputy Secretary, and the Counselor to the Secretary for Energy Policy.

(5) Immediately cease all activities to promulgate the "Offshore Air Quality Control, Reporting, and Compliance" Proposed Rule published at 81 Federal Register 19717

(April 5, 2016) and all other rules and guidance published pursuant thereto. Within 21 days of the issuance of this Order, the Director of BOEM shall provide to the ASLM, the Deputy Secretary, and Counselor to the Secretary for Energy Policy, a report explaining the effects, if any, of not issuing a new rule addressing offshore air quality, and providing options for revising or withdrawing the proposed rule consistent with the policy set forth in section 2 of the Executive Order.

(6) Within 21 days of the issuance of this Order, BOEM shall provide to the ASLM, the Deputy Secretary, and Counselor to the Secretary for Energy Policy, a report summarizing progress on the action items 1-5 above.

b. The BSEE shall undertake the following actions:

(1) Promptly review the final rule on “*Oil and Gas and Sulfur Operations in the Outer Continental Shelf-Blowout Preventer Systems and Well Control*” for consistency with the policy set forth in section 2 of the Executive Order, as well as all policies, rules, guidance, instructions, notices, or other implementing actions that have been adopted or are in the process of being developed relating thereto.

(2) Within 21 days of the issuance of this Order, provide to ASLM, Deputy Secretary, and Counselor to the Secretary for Energy Policy a report summarizing the review and providing recommendations on whether to suspend, revise, or rescind the rule.

c. The BSEE and BOEM are also to undertake the following action: Promptly review the final rule entitled “Oil and Gas and Sulfur Operations on the Outer Continental Shelf—Requirements for Exploratory Drilling on the Arctic Outer Continental Shelf,” 81 Federal Register 46478 (July 15, 2016), for consistency with the policy set forth in section 2 of the Executive Order and, within 21 days of the date of this Order, provide to ASLM, Deputy Secretary, and Counselor to the Secretary for Energy Policy a report summarizing the review and providing recommendations on whether to suspend, revise, or rescind the rule.

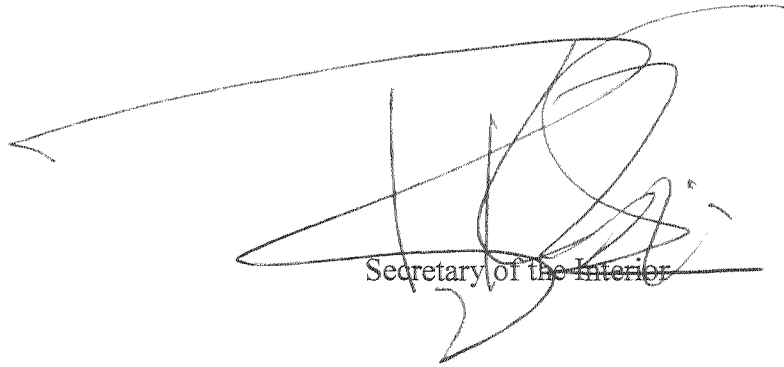
d. The Counselor to the Secretary for Energy Policy, in cooperation with the Assistant Secretary for Fish and Wildlife and Parks (ASFWP) and ASLM, shall work with the Department of Commerce to review the National Marine Sanctuary and Monument designations as directed by the Executive Order.

**Sec. 5 Counselor to the Secretary for Energy Policy.** To further promote the deliberate and active coordination of energy policy in the Department, I am, by separate Order, establishing within the Secretary’s Immediate Office the position of Counselor to the Secretary for Energy Policy. The Deputy Secretary, ASLM, and ASFWP will coordinate with the Counselor to the Secretary for Energy Policy in implementing this Order.

**Sec. 6 Effect of Order.** This Order is intended to improve the internal management of the Department. This Order and any resulting reports or recommendations are not intended to, and do not create any right or benefit, substantive or procedural, enforceable at law or equity by a party against the United States, its departments, agencies, instrumentalities or entities, its

officers or employees, or any other person. To the extent there is any inconsistency between the provisions of this Order and any Federal laws or regulations, the laws or regulations will control.

**Sec. 7 Expiration Date.** This Order is effective immediately. It will remain in effect until its provisions are implemented and completed, or until it is amended, superseded, or revoked.

A large, stylized handwritten signature in black ink, appearing to be 'D. H. S.', is written over the printed text 'Secretary of the Interior'. The signature is composed of several overlapping loops and strokes.

Secretary of the Interior

Date: **MAY 01 2017**